

Washington Administrative Code Notice of Permanent Rules for Scrap Metal Business – Recycler/ Processor/Supplier

This explanatory statement concerns the **Washington State Department of Licensing’s adoption of chapter 308-70 WAC Scrap Metal Business – Recycler/Processor/Supplier.**

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rule making.

Once persons who gave comment during this rule making have had a chance to receive this document, the Department of Licensing will file the amended rules with the Office of the Code Reviser. These rule changes will become effective January 1, 2014.

The Department of Licensing appreciates your involvement in this rule making process. If you have any questions, please contact Damon Monroe, Agency Rules Coordinator, at (360) 902-3843 or e-mail at dmonroe@dol.wa.gov.

What are the agency’s reasons for adopting this rule?

Rules are being adopted in accordance with the implementation of ESHB1552. Licensing requirements go into effect January 1, 2014.

Summary of all public comments received on this rule proposal and the agency’s response to those comments:

Chris Kettman, Simon Metals/Institute of Scrap Recycling Industries – Written comments
Louise Bray, Schnitzer Steel/Institute of Scrap Recycling Industries – Oral testimony

In reply to the advertisement of public hearings in the Washington State Register, WSR 13-20-135, the program received one written comment, and one person presented oral testimony at the November 5, 2013, hearing.

Comment:

WAC 308-70-110 (5) Normal business hours: We received comments requesting “normal business hours” be changed to “regular business hours” and the definition be changed from “8:00 am to 5:00 pm” to “regular business hours must be clearly posted”. It was also requested that the term “normal business hours” be changed to “regular business hours” throughout the chapter. This change was requested because a majority of scrap metal businesses are not open 8:00 am to 5:00 pm due to union contracts and size of their businesses.

Reply:

This change will be partially adopted. The phrase “unless otherwise posted” will be added to the definition creating a new definition of “8:00 am to 5:00 pm, unless otherwise posted”. We will keep the term “normal business hours” as that term is frequently used in the chapter.

Comment:

WAC 308-70-110 (6) Scrap metal: We received comments requesting a change in the definition of “Scrap metal”. The first change was to include the phrase “as defined in RCW 19.290”. Also, stakeholders wanted to remove the referenced exemption of “major component parts as defined in chapters 46.79 and 46.80 RCW”, as this exemption already exists in statute.

Reply:

Both changes will be adopted because the revised definition is more descriptive and non-redundant and does not negatively impact the program.

Comment:

WAC 308-70-110 (7) Common Carrier: We received comments requesting the definition of “common carrier” be amended. It was requested that the part of the definition dealing with exempting common carriers from licensure only if they are transporting between licensed scrap metal businesses be removed. It was stated that the current rule language would have prevented scrap metal businesses from hiring common carriers, thus negatively impacting existing scrap metal industry practices. This is because there is a high volume of transportation between scrap metal businesses and other non-scrap metal businesses.

Reply:

This change will be adopted because it will not negatively affect the program.

Comment:

WAC 308-70-120 Scrap metal business Application for license: We received comments requesting this rule be removed as they did not believe a State Environmental Policy Act (SEPA) checklist is required with application.

Reply:

This change will not be adopted as some in the industry misinterpreted this section. There is no state requirement for a submission of a SEPA checklist with the application; however, a SEPA checklist may be required by the local authorities. The local zoning authorities will sign applications confirming the business location is in compliance with environmental requirements.

Comment:

WAC 308-70-140 Established place of business: We received comments requesting that where nonferrous, private, and commercial metal property is referred to, it be replaced by “scrap metal property”. It was stated this is for consistency, and because “scrap metal” is previously defined in this chapter.

Reply:

This change will be adopted because it is consistent with chapter 19.290 RCW and will not negatively impact the program.

Comment:

WAC 308-70-140 Established place of business: We received comments requesting changing the phrase “business books and records” to “transaction records required for compliance with RCW 19.290”. It was stated that “business books and records” is too broad and there may be confusion as to what records are subject to inspection.

Reply:

This change will be partially adopted. The phrase “business books and records” is commonly used in the Business and Professions Division (BPD) of DOL when dealing with records subject to audit and inspection. Therefore, we will keep the terminology consistent. However, in order to alleviate the concerns expressed regarding the broadness of the term and to clearly define what records are subject to inspection, we will add “as defined in chapter 19.290 RCW”.

Comment:

WAC 308-70-160 Scrap metal business license plates: We received comments requesting a change preventing plates being split between tractor and trailer. The people offering comments wanted all vehicles to have their own set of plates as they regularly interchange trucks and trailers. This creates a truck and trailer combination with mismatching plates. They agreed that they would do whatever law enforcement recommended.

Reply:

This change will not be adopted. All plates issued to a scrap metal business will have a four digit number unique to that business. Sets will have a corresponding letter designation differentiating plate sets issued to the same business. The letter designation is only for program purposes, so we know how many sets have been issued to each business. Then, if one plate is damaged or lost we know which plate set to cancel. We spoke with a representative of the Washington State Patrol and he informed us that having mismatched plates with different letter combinations on tractors and trailers will not be an issue.

WAC Changes:

WAC 308-70-110

(5) 4th line after holidays, adding “unless otherwise posted”.

(6) 2nd line after used metal, deleting “except gold, silver, or platinum” and adding “as defined in chapter 19.290 RCW”.

(6) deleting the last sentence, “This does not include major component parts as defined in chapters 46.79 and 46.80 RCW”.

(7) 6th line after scrap metal for hire, deleting “between scrap metal dealers licensed by the state or county in which they operate, and the ownership interest in the scrap metal is transferred directly between the scrap metal dealers”.

WAC 308-70-140

(a)(i) deleting “Nonferrous metal or private”, and adding “Scrap”.

(a)(ii) deleting “nonferrous metal, private metal property, and commercial” and adding “scrap”.

(b)(iii) after “The business books and records”, adding “as defined in chapter 19.290 RCW”.

(d) after, “The business’s operating hours must be clearly posted”, deleting “and must meet or exceed normal business hours as defined in WAC 308-70-110(5)”.

(2)(a) 2nd line after place where, deleting “nonferrous metal or private” and adding “scrap”.

(2)(d) first line after, “the business’s operating hours must be clearly posted”, deleting “and must meet or exceed normal business hours as defined in WAC 308-70-110(5)”.

(3)(b) after, “Where the business books and records”, adding “as defined in chapter 19.290 RCW”.